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**FEDERAL COMMUNICATIONS  
COMMISSION**

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In re	)	MM DOCKET No.: 97-122
	)	
GERARD A. TURRO	)	File No.: BRFT-970128YC
	)	
For Renewal of License	)	File No.: BRFT-970129YD
For FM Translator Stations	)	
W276Q(FM), Fort Lee, NJ,	)	
and W232AL(FM), Pomona, NY	)	
	)	
MONTICELLO MOUNTAINTOP	)	
BROADCASTING, INC.	)	
Order to Show Cause Why the	)	
Construction Permit for FM	)	
Radio Station WJUX(FM),	)	
Monticello, NY,	)	
Should Not Be Revoked	)	

Volume XI

Pages: 1478 through 1764

Place: Washington, D.C.

Date: December 10, 1997

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Washington, D.C. 20554

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Construction Project for FM	)	
Radio Station WJUX(FM),	)	
Monticello, NY, Should Not	)	
Be Revoked	)	

Courtroom 1  
FCC Building  
2000 L Street, N.W.  
Washington, D.C.

Wednesday,  
December 10, 1997

The parties met, pursuant to adjournment,  
at 9:05 a.m.

BEFORE: HON. ARTHUR I. STEINBERG  
Administrative Law Judge

APPEARANCES:

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I N D E X

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Gerard Turro					
By Mr. Naftalin	1483	--	--	--	--
By Mr. Aronowitz	--	1544	--	--	--
By Mr. Helmick	--	1572	--	--	--
By Mr. Riley	--	1575	--	--	--
By Mr. Aronowitz	--	1577	--	--	--
By Mr. Naftalin	--	--	1583	--	--
By Mr. Helmick	--	--	--	1598	--
By Mr. Aronowitz	--	--	--	1601	--
By Mr. Riley	--	--	--	1611	--
By Mr. Naftalin	1612	--	--	--	--
By Mr. Aronowitz	--	1661	--	--	--
By Mr. Helmick	--	1709	--	--	--
By Mr. Naftalin	--	--	1721	--	--

E X H I B I T S

<u>IDENTIFIED</u>	<u>RECEIVED</u>	<u>REJECTED</u>
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Turro:

T-31	(Prev.)	1488
T-32	(Prev.)	1486
T-33	1512	1513
T-34		1648
T-35	1660	
T-36		

Hearing Began:	9:05 a.m.	Hearing Ended:	4:47 p.m.
Recess Began:	1:20 p.m.	Recess Ended:	2:15 p.m.

1                    P R O C E E D I N G S

2                    JUDGE STEINBERG   We are on the record now, and let  
3                    the record reflect that Mr. Luna is back in the courtroom  
4                    per our discussion yesterday.

5                    Welcome, Mr. Luna.   And you're going apartment  
6                    shopping here in Washington?

7                    (Laughter.)

8                    JUDGE STEINBERG:   Just thought I'd --

9                    MR. ARONOWITZ:   Running out of monuments to tour.

10                   MR. LUNA:   Yeah.

11                   JUDGE STEINBERG:   Okay.   Also, while we were off  
12                   the record, we had a brief discussion.   Mr. Turro has  
13                   prepared some large sized charts to help him explain  
14                   something in his testimony, and I had a discussion with the  
15                   parties that what we would do is make the actual charts that  
16                   he's using an exhibit, and that the charts would be redrawn  
17                   on eight-and-a-half by 11 inch paper, and that would be  
18                   distributed to the parties, and you will have a reasonable  
19                   period of time to do that.

20                   Also, let me state that -- well, I will state that  
21                   later.   So anything other preliminary matters that we have  
22                   to do?

23                   MR. NAFTALIN:   No, Your Honor.

24                   JUDGE STEINBERG:   Okay, Mr. Turro.   Okay, would  
25                   you raise your right hand, please, sir.

1 Whereupon,

2 GERARD TURRO

3 having been first duly sworn, was called as a witness herein  
4 and was examined and testified as follows:

5 JUDGE STEINBERG: Please be seated, and state your  
6 name and address for the record.

7 THE WITNESS: My name is Gerard Turro, T-U-R-R-O.  
8 687 Orchard Street, in Oradell, New Jersey.

9 JUDGE STEINBERG: Okay, now, Mr. Naftalin, there  
10 was a bit of housekeeping we need to do.

11 MR. NAFTALIN: Thank you, Your Honor. Let me  
12 approach.

13 DIRECT EXAMINATION

14 BY MR. NAFTALIN:

15 Q Mr. Turro, I am putting in front of you a copy of  
16 what was previously identified only as Turro Exhibit No. 31.  
17 Would you familiarize yourself with it, please?

18 A Okay.

19 Q Mr. Turro, of your own knowledge, are you aware of  
20 whether this is an accurate, technically accurate  
21 description of the phase canceler that was -- that you have  
22 testified was in place at the Fort Lee translator in parts  
23 of 1994 and 1995?

24 A Yes.

25 JUDGE STEINBERG: Okay, well.

1 MR. NAFTALIN: Do you want me to admit the other  
2 one first?

3 JUDGE STEINBERG: Yes, because the -- well, it  
4 doesn't much matter. Everyone knows that -- does everyone  
5 know that the phase canceler to which this refers is the  
6 phase canceler mentioned in Turro Exhibit 32 for  
7 identification?

8 Well, why don't you establish that?

9 MR. NAFTALIN: I went by number order instead --

10 JUDGE STEINBERG: Okay.

11 MR. NAFTALIN: Let me withdraw 31 for a moment.

12 BY MR. NAFTALIN:

13 Q Mr. Turro, let me put in front of you a copy of  
14 previously identified Turro Exhibit No. 32. Would you  
15 please familiarize yourself with this exhibit?

16 A Okay.

17 Q Mr. Turro, do you agree that this is the  
18 supplemental statement that you have produced?

19 A Yes.

20 Q Okay, are the assertions in here based upon your  
21 personal knowledge?

22 A Yes.

23 Q Are the assertions in Turro Exhibit No. 32 true  
24 and accurate?

25 A Yes.



1 MR. NAFTALIN: Your Honor, we would request  
2 admission of Turro Exhibit No. 32.

3 JUDGE STEINBERG: Any objection?

4 Mr. Aronowitz?

5 MR. ARONOWITZ: Excuse me?

6 JUDGE STEINBERG: Thirty-two, any objections --

7 MR. ARONOWITZ: No, Your Honor.

8 JUDGE STEINBERG: --to its receipt?

9 MR. ARONOWITZ: Well, for the introduction.

10 JUDGE STEINBERG: It's already been identified.

11 MR. ARONOWITZ: Right.

12 JUDGE STEINBERG: And now it's being introduced  
13 into evidence.

14 MR. ARONOWITZ: Introduced, okay.

15 JUDGE STEINBERG: No problem?

16 MR. ARONOWITZ: No problem.

17 JUDGE STEINBERG: Mr. Helmick?

18 MR. HELMICK: No, Your Honor.

19 JUDGE STEINBERG: Mr. Riley?

20 MR. RILEY: No, Your Honor.

21 JUDGE STEINBERG: Okay, Exhibit No. 32 is  
22 received.

23 //

24 //

25 //

1 (The document referred to,  
2 having been previously marked  
3 for identification as Turro  
4 Exhibit No. 32, was received  
5 into evidence.)

6 BY MR. NAFTALIN:

7 Q Mr. Turro, one additional matter. Yesterday  
8 during the identification of Turro Exhibit No. 32, the Judge  
9 noted an error in the first sentence.

10 Do you agree that there is an error in the first  
11 sentence?

12 A Yes.

13 Q What is that error?

14 A It's October 1995. It should have been October  
15 1994.

16 Q Was that a typographic error, Mr. Turro?

17 A I believe so.

18 Q Based upon your personal knowledge and to the best  
19 of your recollection, was the year actually 1994, which is  
20 referred to in that sentence?

21 A Yes, sir.

22 Q Thank you.

23 MR. NAFTALIN: Your Honor, at a later time I can  
24 distribute replacement pages.

25 JUDGE STEINBERG: Okay. I don't really need a

1 replacement page.

2 MR. NAFTALIN: Okay. If anyone wants them, I have  
3 them.

4 JUDGE STEINBERG: Sure.

5 BY MR. NAFTALIN:

6 Q Now, Mr. Turro, I'm going to put back in front of  
7 you previously identified Exhibit Turro No. 31. And my  
8 question to you now, sir, is this an accurate description of  
9 the phase canceler unit and the model of the phase canceler  
10 unit which was in place at the Fort Lee translator during  
11 parts of 1994 and 1995?

12 A Yes, sir.

13 Q And is this true based upon your own knowledge and  
14 belief?

15 A Yes, sir.

16 MR. NAFTALIN: Your Honor, we seek to admit Turro  
17 Exhibit No. 31.

18 JUDGE STEINBERG: Okay, phase canceler is the --  
19 31 is called co-channel eliminator.

20 MR. NAFTALIN: Let me ask.

21 BY MR. NAFTALIN:

22 Q Mr. Turro, is there any significant distinction  
23 between the name "co-channel eliminator" and "phase  
24 canceler"?

25 A No, sir.

1 Q Okay, they are for all material purposes the same  
2 unit?

3 A Yes, sir.

4 Q It's just a difference in nomenclature?

5 A Yes, sir.

6 JUDGE STEINBERG: Any objection to the receipt of  
7 Exhibit 31, Mr. Aronowitz?

8 MR. ARONOWITZ: No, Your Honor.

9 JUDGE STEINBERG: Mr. Helmick?

10 MR. HELMICK: No, Your Honor.

11 JUDGE STEINBERG: Mr. Riley?

12 MR. RILEY: No, Your Honor.

13 JUDGE STEINBERG: Okay, Turro Exhibit 31 is  
14 received.

15 MR. NAFTALIN: Thank you, Your Honor.

16 (The document referred to,  
17 having been previously marked  
18 for identification as Turro  
19 Exhibit No. 31, was received  
20 into evidence.)

21 MR. NAFTALIN: Your Honor, as we discussed  
22 yesterday, Mr. Turro is prepared to provide some testimony  
23 and a demonstration in the nature of -- I think in the  
24 nature of part of his direct case. With that in mind, I  
25 would like the record to reflect that there are several

1 items of equipment which have been set up in the courtroom.

2 JUDGE STEINBERG: Okay, why don't we let Mr. Turro  
3 tell us --

4 MR. NAFTALIN: And I'm going to ask Mr. Turro to  
5 identify --

6 JUDGE STEINBERG: -- what they are.

7 MR. NAFTALIN: -- them, and then we will seek to  
8 use them for demonstration purposes.

9 JUDGE STEINBERG: Okay. Yes, he can identify them  
10 and then tell us how they are hooked up.

11 MR. NAFTALIN: Sure.

12 JUDGE STEINBERG: Real simply.

13 BY MR. NAFTALIN:

14 Q Mr. Turro, if you can give us a full explanation  
15 of what's here for the record, that would be very helpful.

16 A I will do as much from here as I can.

17 Q Please.

18 A Those are two TC-8 remote control units, similar  
19 to the units used in Dumont, New Jersey, for both the Dumont  
20 to Fort Lee facility, and the Dumont to Monticello facility.  
21 TC-8s are very a very simple design. They have been around  
22 for a number of years, and they really haven't change in  
23 probably at least six - seven, maybe as much as 10 years.  
24 They are basically the same.

25 Q Mr. Turro, are these the same model or a different

1 items of equipment which have been set up in the courtroom.

2 JUDGE STEINBERG: Okay, why don't we let Mr. Turro  
3 tell us --

4 MR. NAFTALIN: And I'm going to ask Mr. Turro to  
5 identify --

6 JUDGE STEINBERG: -- what they are.

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19 to the units used in Dumont, New Jersey, for both the Dumont  
20 to Fort Lee facility, and the Dumont to Monticello facility.  
21 TC-8s are very a very simple design. They have been around  
22 for a number of years, and they really haven't change in  
23 probably at least six - seven, maybe as much as 10 years.  
24 They are basically the same.

25 Q Mr. Turro, are these the same model or a different

1 model from the TC-8 units which have been in use in Dumont?

2 A They are --

3 JUDGE STEINBERG: Since when?

4 BY MR. NAFTALIN:

5 Q Please give us a time frame.

6 A I'm sorry?

7 Q Let me start over.

8 Did you have TC-8 units in operation at the Dumont  
9 studio starting at least in October of 1994?

10 A Yes.

11 Q And have those TC-8 units ever been replaced?

12 A No.

13 Q Okay. The units that you have provided for the  
14 courtroom today, are they the same model or a different  
15 model from the TC-8 units in use in Dumont?

16 A They are the exact model.

17 Q The exact same model as --

18 A Yes, TC-8.

19 Q Thank you.

20 Would you explain to us how you've set these up?

21 A These are set up to communicate with each other  
22 via a piece of wire. Generally, when you feed Monticello  
23 it's over a data circuit, a two-channel data circuit to feed  
24 commands to Monticello, along with audio.

25 In the Fort Lee situation, they are hooked up to

1 a microwave unit, MG-499, where it was multiplexed onto the  
2 microwave unit, and the data was carried on a microwave to  
3 Fort Lee to give commands.

4 So that's basically -- I can't bring a microwave  
5 unit into the courtroom. I can't bring a 56 kilobyte  
6 circuit into the courtroom, so to simply it, we have a wire  
7 between them.

8 Q Mr. Turro, is it your understanding that the wires  
9 which you have used to connect each of these TC-8 units  
10 together for demonstration purposes would function  
11 substantially the same as the facilities you've just  
12 described that were actually in place?

13 A Yes.

14 Q Okay. Mr. Turro, there is another piece of  
15 equipment on top of one of the TC-8 units that appears to me  
16 to have wires and ribbon cord and whatnot attached to it.

17 Would you explain that, please?

18 A That is an interface unit that would allow you to  
19 interface to a transmitter or switching equipment or other  
20 apparatus at the transmitter site, and that's the unit on  
21 top. That actually has a name written on it. I can't  
22 remember what it is, but it's basically a TC-8 remote  
23 control interface panel.

24 Q Let me make sure I understand. That's something  
25 that allows the TC-8 unit to hook up to a transmitter?



1           A     It interfaces between a transmitter or other  
2     equipment at the transmitter.

3           JUDGE STEINBERG: By that you are meaning wires  
4     coming into it and then wires -- wires coming into it from  
5     some source?

6           THE WITNESS: From a transmitter.

7           JUDGE STEINBERG: From a transmitter; wires going  
8     out to it?

9           THE WITNESS: Yes.

10          JUDGE STEINBERG: To some other piece of  
11     equipment?

12          THE WITNESS: Basically, allows other pieces of  
13     equipment that are in the transmitter room to communicate  
14     with TC-8 remote control unit. It's just basically an  
15     interface.

16          BY MR. NAFTALIN:

17          Q     Could you give examples of -- is this interface  
18     the same or substantially similar to an interface that might  
19     have been used in real life?

20          A     It is identical.

21          Q     Okay. All right.

22                 Let me then ask you, immediately next to one of  
23     the TC-8 units there is a black box, I'd say about the size  
24     of a cigarette pack with a small red light sticking out of  
25     it.

1 A Yes.

2 Q What's that for?

3 A That is -- I couldn't bring in a 6,000 watt FM  
4 transmitter here, so I brought in the small box which will  
5 represent the WJUX FM transmitter, and show it's on and off  
6 functions.

7 JUDGE STEINBERG: Okay, so when the red light is  
8 lit, what would that mean?

9 THE WITNESS: That means the transmitter is on,  
10 Your Honor.

11 JUDGE STEINBERG: And when it's off?

12 THE WITNESS: It means the transmitter is off.

13 BY MR. NAFTALIN:

14 Q And for demonstration purposes, could this little  
15 black box and red light demonstrate anything other than on  
16 and off?

17 Can it perform any functions other than on/off?

18 A As in raising and lowering power?

19 Q Well, we will get to that later. I'm just asking  
20 you is the sole function of this to show on and off?

21 A Yes.

22 MR. ARONOWITZ: The black box?

23 MR. NAFTALIN: Yes, this little black box --

24 MR. ARONOWITZ: Okay.

25 MR. NAFTALIN: -- with the little red light about

1 the size of -- I'm saying the size of a cigarette pack.

2 JUDGE STEINBERG: I think -- okay, and then you've  
3 got the strobe.

4 MR. NAFTALIN: Oh, yes, let me get to that. I  
5 just wanted to point out the signs. Mr. Turro -- actually,  
6 I labeled each of the three things we have discussed. In  
7 other words, two pieces of TC-8 units, and the third piece  
8 of equipment here, which is the little black box with the  
9 red light on it. I labeled the -- I put a sign under the  
10 little black box with the red light which says "WJUX (WXTM)  
11 transmitter."

12 BY MR. NAFTALIN:

13 Q Do you consider that to be a reasonable and  
14 accurate --

15 A Yes, sir.

16 Q -- representation?

17 A Yes, sir.

18 Q And I put a sign under one of the TC-8 units which  
19 says "At transmitter."

20 Is that a reasonable and accurate description?

21 A Yes.

22 Q And under the other piece of the TC-8 unit, Mr.  
23 Turro, I put a sign that says, "In Dumont."

24 Is that a reasonable and accurate description?

25 A Yes.

1 Q Okay. One more --

2 JUDGE STEINBERG: Let's go off the record for a  
3 minute.

4 (Discussion off the record.)

5 JUDGE STEINBERG: Back on the record.

6 BY MR. NAFTALIN:

7 Q Continuing with the equipment you have brought --

8 JUDGE STEINBERG: Oh, Mr. Helmick had a question  
9 before.

10 MR. HELMICK: Just so I understand, the TC-8 unit  
11 that you have labeled "At transmitter," where is that  
12 physically located?

13 THE WITNESS: WJUX transmitter.

14 MR. HELMICK: At the WJUX transmitter.

15 THE WITNESS: Yes, sir.

16 MR. HELMICK: So that's not in Dumont?

17 MR. NAFTALIN: This is the one that's in Dumont.

18 THE WITNESS: That's the one that's in Dumont.

19 MR. HELMICK: That's the one that's in Dumont, and  
20 that's connected to what? The microwave unit --

21 THE WITNESS: Right now we're just talking about  
22 Monticello.

23 BY MR. NAFTALIN:

24 Q Mr. Turro, let me ask you, the part of the TC-8  
25 unit we've labeled "In Dumont."

1 A Yes, sir.

2 Q Is this the same model of electronic equipment  
3 that could be seen sitting in a rack in the on-air studio in  
4 the Dumont studio?

5 A It's the exact same type model that was used to  
6 control Monticello, yes.

7 Q Okay. So we have --

8 JUDGE STEINBERG: When you say "to control  
9 Monticello," you mean the Monticello transmitter?

10 THE WITNESS: Yes, sir.

11 BY MR. NAFTALIN:

12 Q And, in addition, was there an exact same model to  
13 this but separate from it to control the Fort Lee  
14 transmitter?

15 A Yes.

16 Q Okay. In other words, when we refer to TC-8s, you  
17 had identical models of TC-8, one for controlling Fort Lee  
18 and another one to control the Monticello transmitter?

19 A Yes.

20 Q Okay. Mr. Turro, let me direct your attention to  
21 a round light. It's three or four inches in diameter.  
22 Handwritten on it in black pen it says, "Off air." On the  
23 back of it, it's identified that it was built by Radio  
24 Shack.

25 Would you --

1 JUDGE STEINBERG: It's got an amber cover on it.

2 MR. NAFTALIN: It's amber in color.

3 BY MR. NAFTALIN:

4 Q Mr. Turro, what is this thing?

5 A That is a light which was -- which shows loss of  
6 data telemetry for remote control to Monticello. And in  
7 the loss of data remote control to Monticello would flash.

8 Q Okay, we will get to an explanation of it in a  
9 minute.

10 A Okay, I'm sorry.

11 Q But my question to you is this: There was such a  
12 light in the Dumont studio for a period of time?

13 A That's the exact light.

14 Q This is the exact same light that was in the  
15 Dumont studio?

16 A Yes.

17 Q Okay. Do you have a similar light there now?

18 A Actually, what happened is it triggered falsely so  
19 many times I just turned it off. So taking it out was --

20 Q So you took it out and never replaced it?

21 A It never worked properly from day one.

22 Q Where did this -- where did you buy this light?  
23 Did it come from a manufacturers? Where did you ---

24 A I think I may have taken it off of one of my son's  
25 toys or something that was broken; from his fire engine or

1 something like that.

2 Q Okay.

3 JUDGE STEINBERG: Let me just for the record say  
4 that before we went on the record I compared -- I basically  
5 took page -- well, Figure 1-1 of Turro Exhibit 28, and  
6 compared the picture there to the two TC-8 units that we  
7 have in the courtroom, and the picture in Figure 1-1 of  
8 Turro 28 is exactly the same as the two TC-8 units we have  
9 in the courtroom.

10 I also looked at Figure 2-2, at the very top of  
11 the page. There is a panel with three white buttons with  
12 C-H-A-N over one, and an up arrow and a down arrow, and  
13 those are accurate depictions of the three white buttons on  
14 the TC-8 units.

15 And then there are three black buttons on the TC-8  
16 units, maintenance, set up and calibration, you know,  
17 abbreviated. And those, I compared those, and those are an  
18 exact duplication of what's on the TC-8 units we have in the  
19 courtroom.

20 Same thing with Figure 2-1, you have the digital  
21 display in the middle. It looks the same as what we have in  
22 the courtroom, and the status lights one through eight; one  
23 through four on the left; five through eight on the right.  
24 They are configured the same way.

25 So, basically, if anybody needs to look at a

1 picture of what a TC-8 unit looks like, and the ones that we  
2 have in the courtroom, they are already in the record.

3 Mr. Aronowitz?

4 MR. ARONOWITZ: Your Honor, just so I am  
5 clarified, would this equipment that we have that we're  
6 looking at that, is there -- Mr. Helmick asked this. I'm  
7 not sure that I understood the answer. Did I understand  
8 that there is not a representative piece of equipment that  
9 would be representing the WMG499 in this set up? Is that  
10 correct?

11 MR. NAFTALIN: You mean the transmitter for  
12 WMG499? I don't understand.

13 MR. HELMICK: He means the --

14 MR. ARONOWITZ: The microwave link.

15 MR. HELMICK: -- microwave link. The TC-8 unit  
16 for the microwave link.

17 MR. ARONOWITZ: Or -- no, is there anything  
18 reflected in this set up of the microwave link as it  
19 existed?

20 BY MR. NAFTALIN:

21 Q Mr. Turro, let me ask you a question.

22 Would you please say for the period of time from  
23 late October 1994, up to July of 1995, would you describe  
24 where any controls for the WMG499 may have been in the  
25 Dumont studio?



1 If I asked that wrong, tell me.

2 A May I answer Mr. Aronowitz's question first?

3 Q Please do.

4 A I'm trying to simplify, so I apologize.

5 Right now we are basically talking about

6 Monticello with the way this is set up.

7 MR. ARONOWITZ: Okay.

8 THE WITNESS: Okay, so we can refer later on to  
9 Fort Lee, but to simplify this, we're referring to  
10 Monticello right now. Okay, for the sake of some -- we can  
11 make the leap later.

12 MR. ARONOWITZ: Okay, okay.

13 THE WITNESS: With all due respect, we're going to  
14 make a muddled mess out of this.

15 MR. ARONOWITZ: Fair enough.

16 THE WITNESS: I'm trying to -- this is basically  
17 Monticello right now.

18 MR. ARONOWITZ: Okay.

19 MR. NAFTALIN: Your Honor.

20 JUDGE STEINBERG: In an attempt to make a less  
21 muddled mess, the strobe light was an indication -- when the  
22 strobe light went off, that meant that the microwave, the  
23 data line in the microwave was interrupted?

24 THE WITNESS: No, the --

25 MR. NAFTALIN: No, Your Honor.